

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

APRIL PREMO WILLIAMS,

Plaintiff,

v.

STATE OF CALIFORNIA WORKERS
COMPENSATION BOARD, et al.,

Defendants.

No. 2:22-cv-00302-KJM-AC

ORDER

The court is in receipt of plaintiff's motion to appoint counsel. ECF No. 11. The court is also in receipt of plaintiff's request to cancel the initial status conference currently set for August 24, 2022. ECF No. 10.

I. Motion

Both plaintiff's motion to appoint council and her request to cancel the status conference are based on her assertion that she has various communication and information retention disabilities. ECF Nos. 10 and 11. Plaintiff asserts she cannot use Zoom. ECF No. 10 at 1.

II. Analysis

In civil cases, a pro se litigant's right to counsel "is a privilege and not a right." United States ex Rel. Gardner v. Madden, 352 F.2d 792, 793 (9th Cir. 1965) (citation omitted). "Appointment of counsel should be allowed only in exceptional cases." Id. When determining

1 whether “exceptional circumstances” exist, the court must consider the likelihood of success on
2 the merits as well as the ability of the plaintiff to articulate her claims pro se in light of the
3 complexity of the legal issues involved. Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009).

4 Having considered the relevant factors, the court finds there are no exceptional
5 circumstances in this case, and that appointment of counsel is not warranted at this time.
6 Plaintiff’s case is not overly complex, and she has shown herself capable of making filings with
7 the court. Appointment of counsel therefore is not appropriate.

8 As to plaintiff’s request that the scheduling conference be cancelled, the court will
9 accommodate plaintiff insofar as it will push back the hearing to September 28, 2022 in order to
10 give plaintiff additional time to prepare. The court will provide a call-in number so that plaintiff
11 does not have to use the videoconference function of Zoom but can appear telephonically. If
12 plaintiff prefers, she may make a request for an in-person hearing. The conference will not be
13 cancelled because it is necessary to set case deadlines. Also, the conference is plaintiff’s
14 opportunity to ask questions and for the court to explain the litigation process.

15 Plaintiff expresses concerns that she is not currently capable of litigating this case.
16 Plaintiff is reminded that she may voluntarily dismiss the case without prejudice (meaning she
17 can bring this case again later), pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), by
18 filing a notice of voluntary dismissal with the Clerk of Court. However, as noted above, plaintiff
19 has a right to continue in pro se and at this time it appears that she is capable of doing so.
20 Plaintiff’s concerns in this regard can be discussed at the scheduling conference.

21 **III. Conclusion**

22 Plaintiff’s motion to appoint counsel (ECF No. 11) is DENIED. Plaintiff’s request to
23 cancel the initial scheduling conference in this case (ECF No. 10) is also DENIED. The initial
24 scheduling conference (ECF No. 7) is re-set for September 28, 2022 via Zoom before Magistrate
25 Judge Allison Claire. Plaintiff may dial in without using video. The parties shall contact the
26 Courtroom Deputy Jonathan Anderson by phone (916) 930-4199 or by email at

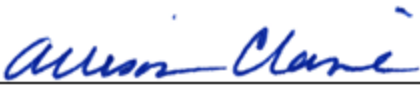
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1 janderson@caed.uscourts.gov one day prior to the scheduled motion hearing to receive the dial-in
2 information.

3 IT IS SO ORDERED.

4 DATED: August 2, 2022

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6 ALLISON CLAIRE
7 UNITED STATES MAGISTRATE JUDGE
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